

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****RECEIVED  
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Applicants : Lundberg et al.  
Serial No. : 09/646,852  
Filing or 371(c) Date : September 22, 2000  
For : NEW FORMULATION  
Examiner : Tran, Susan T.  
Group Art Unit : 1615

<b>CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. 1.8</b>	
I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office on the date indicated below at the facsimile number <u>571-273-8300</u> .	
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Agent Name	PTO Reg. No.
<u>John M. Genova</u>	<u>15 December 2005</u>
Signature	Date of Signature

 *fees processed*

**Mail Stop Amendment**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ATTENTION: Examiner Susan T. Tran**  
**DATE: 15 December 2005**  
**NUMBER OF PAGES: 10**  
**FAX NUMBER: 571-273-8300**

**AMENDMENT**

Sir:

Applicants submit this Amendment in response to Office Action, mailed August 17, 2005.

Listing of Claims begins on page 2 of this paper.

Remarks begin on page 6 of this paper.

### **REMARKS**

#### **I. Petition for Extension of Time**

Applicants herewith petition the Commissioner for Patents to extend the time for response to the Office action mailed August 17, 2005 for one month from November 17, 2005 to December 17, 2005. Authorization is given to charge the extension of time fee of \$120.00 (37 C.F.R. §§1.136 and 1.17) to Deposit Account No. 23-1703. Any deficiency or overpayment should be charged or credited to the above numbered deposit account.

#### **II. Claim Rejections – 35 U.S.C. §112**

Claims 1, 3-10, 12-18, 20 and 20-29 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 1 has been amended to recite that the core comprises an optional starter seed. Accordingly, antecedent basis is now provided for that term as recited in dependent claims 12, 14, 15 and 29.

Process claim 20 has been amended to recite that delayed release dosage form of claim 1 is obtained with the claimed process. The expressions "wherein the dosage form has no enteric coating" has been deleted.

Applicants submit that no new matter has been introduced by the claim amendments. Withdrawal of the §112 rejections is requested.

#### **III. Claim Rejections – 35 U.S.C. §103(a)**

##### **A. US 6,245,351 to Nara et al. ("Nara") in view of US 5,225,202 to Hodges et al. ("Hodges")**

Claims 1, 3, 6-8, 12-18, 20 and 25-29 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Nara in view of Hodges.

The core of the claimed dosage form contains a sufficiently large amount of an alkaline agent, i.e., approximately 10 to 35 % by weight of the core material excluding the weight of an

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**C. Nara, Hodges and WO 98/54171 ("Cotton")**

Claims 4, 5 and 23-26 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Nara in view of Hodges and Cotton.

As stated by the Examiner on page 4 of the Office Action, Cotton is cited for the disclosure of the magnesium salt of S-omeprazole as an active ingredient. Applicants submit that Cotton does not overcome the deficiencies of Nara and Hodges to suggest the claimed invention for the reasons given in Section III(A). Withdrawal of the §103 rejection of claims 4, 5 and 23-26 is requested.


**CONCLUSION**

Applicants have made a good faith attempt to respond to the Office Action. It is respectfully submitted that claims 1, 3-10, 12-18, 20 and 23-29 are in condition for allowance, which action is earnestly solicited.

Any fees due in connection with this response should be charged to Deposit Account No. 23-1703.

Dated: 15 December 2005

Respectfully submitted,

  
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